

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

BAYER HEALTHCARE AG, ALCON, INC.,)
and ALCON MANUFACTURING, LTD.,)

Plaintiffs,)

v.)

TEVA PHARMACEUTICALS USA, INC.,)

Defendant.)

Civil Action No. 06-234 SLR

DEFENDANT'S NOTICE PURSUANT TO 35 U.S.C. § 282

In accordance with 35 U.S.C. § 282, Defendant Teva Pharmaceuticals USA, Inc.

("Defendant") hereby gives notice to Plaintiffs of the following patents and publications that may be relied on as anticipating or rendering obvious U.S. Patent No. 6,716,830 or showing the state of the art relative to any of the patents-in-suit:

DESCRIPTION	DATE
File history for U.S. Patent Application No. 07/375,434 (issued as U.S. Patent 4,990,517)	12/06/1990
U.S. Patent No. 4,990,517 to Uwe Petersen, Thomas Schenke, Andreas Krebs, Klaus Grohe, Michael Schriewer, Ingo Haller, Karl G. Metzger, Rainer Endermann, and Hans-Joachim Zeiler	12/06/1990
File history for U.S. Patent Application No. 08/406,448 (issued as U.S. Patent 5,607,942)	08/15/2000
U.S. Patent No. 5,607,942 to Uwe Petersen, Thomas Schenke, Andreas Krebs, Klaus Grohe, Michael Schriewer, Ingo Haller, Karl G. Metzger, Rainer Endermann, and Hans-Joachim Zeiler	08/15/2000
File history for U.S. Patent Application No. 10/200,868 (issued as U.S. Patent 6,716,830)	03/18/2004
U.S. Patent No. 5,059,597 to Uwe Petersen, Thomas Schenke, Andreas Krebs, Klaus Grohe, Michael Schriewer, Ingo Haller, Karl G. Metzger, Rainer Endermann, and Hans-Joachim Zeiler	10/22/1991
File history for U.S. Patent Application No. 07/580,906 (issued as U.S. Patent 5,059,597)	10/22/1991

DESCRIPTION	DATE
U.S. Patent No. 5,416,096 to Uwe Petersen, Thomas Schenke, Andreas Krebs, Klaus Grohe, Michael Schriewer, Ingo Haller, Karl G. Metzger, Rainer Endermann, and Hans-Joachim Zeiler	5/16/1995
File history for U.S. Patent Application No. 07/737,631 (issued as U.S. Patent 5,416,096)	5/16/1995
File history for U.S. Patent Application No. 08/026,906	5/17/1995
<i>Firestone, B.A. et al.</i> , "Solubility characteristics of three fluoroquinolone ophthalmic solutions in an <i>in vitro</i> tear model," <i>Int'l Journal of Pharmaceutics</i> 164 (1998) 119-128	Accepted for publication 11/26/1997
<i>Dalhoff et al.</i> , "In vitro activity of BAY 12-8039, a new 8-methoxyquinolone," <i>Chemotherapy</i> , Vol. 42, No. 6, pp. 410-425 (1996)	November – December 1996
<i>Schmitz et al.</i> , "Relationship between ciprofloxacin, ofloxacin, levofloxacin, sparfloxacin and moxifloxacin (BAY 12-8039) MICs and mutations in <i>grrA</i> , <i>grrB</i> , <i>gyrA</i> , and <i>gyrB</i> in 116 unrelated clinical isolates of <i>Staphylococcus aureus</i> ," <i>J. Antimicrob. Chemother.</i> , Vol. 41, pp. 481-484	April 1998
USP Dictionary of USAN and International Drug Names (2000 edition), p. 479	2000
<u>Remington: The Science and Practice of Pharmacy</u> , 19 th ed. (1995); Ch. 89: Ophthalmic Preparations (author: Gerald Hecht), pp. 1563-1579 (Mack Publishing Co., Easton, Pa.)	1995
<u>Modern Pharmaceutics</u> , 2 nd ed. (1990), Ch. 14: Design and Evaluation of Ophthalmic Pharmaceutical Products (Marcel Dekker, Inc., New York)	1990
Entry for "Ciloxan Solution/Drops; Ophthalmic" in the U.S. Food and Drug Administration's <u>Approved Drug Products with Therapeutics Equivalence Evaluations</u>	7/24/2007
Monograph for Ciloxan from the 53 rd edition of the Physicians' Desk Reference, pp. 490-491	1999
Poster entitled "Synthesis and In Vitro Activity of BAY12-8039, a New 8-Methoxyquinolone"	1996
Abstract entitled "Synthesis and In Vitro Activity of BAY12-8039, a New 8-Methoxyquinolone"	1996
Monograph for Ciloxan from the 50 th edition of the Physicians' Desk Reference, pp. 472-473	1996
Monograph for Tobradex Ophthalmic Suspension from the 50 th edition of the Physicians' Desk Reference, pp. 473-474	1996
Entry for "Ciloxan Ointment; Ophthalmic" in the U.S. Food and Drug Administration's <u>Approved Drug Products with Therapeutic Equivalence Evaluations</u>	7/23/2007
U.S. Patent No. 5,149,693 to Gerald D. Cagle, Thomas O. McDonald, and Allan L. Rosenthal	9/22/1992

DESCRIPTION	DATE
<i>Snyder, et al.</i> , "Ciprofloxacin-resistant Bacterial Keratitis," <i>Am. J. Ophthalmol.</i> , 114:336-338	September 1992
<i>Forster</i> , "The Management of Infectious Keratitis As We Approach the 21 st Century," <i>The CLAO Journal</i> , Vol. 24, No. 3, pp. 175-180	July 1998
<i>Zurenko, et al.</i> , "Oxazolidinone antibacterial agents: development of the clinical candidates eperezolid and linezolid," <i>Ex. Opin. Invest. Drugs</i> (1997) 6(2): 151-158	1997
<i>Yasaga, et al.</i> , "Efficacy of New Streptogramin(Synercid) and Oxazolidinone(Linezolid) antibiotics against Vancomycin Reduced and Multi-Drug Resistant Staphylococci recovered from Endophthalmitis cultures" (Abstract)	3/15/2001
<i>Callegan, et al.</i> , "Antibacterial Activity of the Fourth-Generation Fluoroquinolones Gatifloxacin and Moxifloxacin Against Ocular Pathogens," <i>Adv. Chemother.</i> 20(5): 246-252	September/October 2003
<i>Rubinstein</i> , "History of Quinolones and Their Side Effects," <i>Chemother.</i> 2001; 47(suppl 3): 3-8, 44-46	2001
Internet page printout entitled "Search results from the 'OB_Rx' table for query on '019537'" (Orange Book records for Cipro)	10/29/2007
<i>O'Brien et al.</i> , "Topical Ciprofloxacin Treatment of <i>Pseudomonas</i> Keratitis in Rabbits," <i>Arch. Ophthalmol.</i> 106: 1444-1446	10/1998
Internet page printout entitled "Search results from the 'OB_Rx' table for query on '019735'" (Orange Book records for Floxin)	12/16/1997 (approval date)
<i>Borrmann et al.</i> , "Ofloxacin in Human Serum, Urine, and Tear Film After Topical Application," <i>Cornea</i> 11(3): 226-230	1992
U.S. Patent No. 6,395,746 to Gerald Cagle, Robert L. Abshire, David W. Stroman, and John M. Yanni	5/28/2002
<i>Liu</i> , "Pharmacokinetics of Sparfloxacin in the Serum and Vitreous Humor of Rabbits: Physicochemical Properties That Regulate Penetration of Quinolone Antimicrobials," <i>Antimicrob. Agents Chemother.</i> 42: 1417-1423	6/1998
<i>Robertson et al.</i> , "Absorption and Distribution of Moxifloxacin, Ofloxacin and Gatifloxacin into Ocular Tissues and Plasma Following Topical Ocular Administration to Pigmented Rabbits," <i>Invest. Ophthalmol. Vis. Sci.</i> 2004:45: E-Abstract 4906 (Abstract)	2004
<i>Solomon et al.</i> , "Penetration of Topically Applied Gatifloxacin 0.3%, Moxifloxacin 0.5%, and Ciprofloxacin 0.3% into the Aqueous Humor," <i>Ophthalmology</i> 112(3): 466-469	3/2005

DESCRIPTION	DATE
<i>Wagner et al.</i> , "Evaluation of Moxifloxacin, Ciprofloxacin, Gatifloxacin, Ofloxacin, and Levofloxacin Concentrations in Human Conjunctival Tissue," <i>Arch. Ophthalmol.</i> 123:1282-1283	9/2005
<i>Woodcock et al.</i> , "In Vitro Activity of BAY 12-8039, a New Fluoroquinolone," <i>Antimicrobial Agents and Chemotherapy</i> , Jan. 1997, p. 101-106	1/1997
Monograph for Ciloxan® from the 51 st edition of the Physicians' Desk Reference, pp. 468-469	1997
Monograph for Tobradex® from the 51 st edition of the Physicians' Desk Reference, pp. 469-470	1997
Monograph for Ocuflox® from the 51 st edition of the Physicians' Desk Reference, pp. 478-479	1997
Monograph for Ocuflox® from the 49 th edition of the Physicians' Desk Reference, pp. 496-497	1995

January 24, 2008

BAYARD, P.A.

/s/ Richard D. Kirk (rk0922)

Richard D. Kirk

Ashley B. Stitzer

222 Delaware Avenue, Suite 900

P.O. Box 25130

Wilmington, Delaware 19899

(302) 655-5000

rkirk@bayardfirm.com

OF COUNSEL:

Bruce M. Gagala

M. Daniel Hefner

Douglas A. Robinson

LEYDIG, VOIT & MAYER, LTD.

Two Prudential Plaza, Suite 4900

Chicago, Illinois 60601

Attorneys for Defendant,

TEVA PHARMACEUTICALS USA, INC.

CERTIFICATE OF SERVICE

The undersigned counsel further certifies that, on January 24, 2008, copies of the foregoing document were sent to the following in the manner shown:

BY EMAIL AND BY HAND

Frederick L. Cottrell III, Esquire
Jeffrey L. Moyer, Esquire
Anne Shea Gaza, Esquire
Richards, Layton & Finger, P.A.
One Rodney Square
920 North King Street
Wilmington, Delaware 19801

BY EMAIL AND BY U.S. MAIL

Bruce R. Genderson, Esquire
Adam L. Perlman, Esquire
Dov P. Grossman, Esquire
David I. Berl, Esquire
Aaron P. Maurer, Esquire
Williams and Connolly
725 Twelfth Street, N.W.
Washington, D.C. 20005

/s/ Richard D. Kirk (rk0922)
Richard D. Kirk